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TESTA, HURWITZ & THIBEAULT, LLP HIGH STREET TOWER 125 HIGH STREET BOSTON, MA 02110			SALTARELLI, DOMINIC D	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/803,243	Applicant(s) LIWERANT ET AL.	
	Examiner Dominic D. Saltarelli	Art Unit 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-84 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-84 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The invention is a method of sharing a video segment over a network, wherein a receiving computer receives a video segment from another computer and creates an identification tag for said segment, further streaming out said segment in response to receiving the identification tag. It is unclear from the claim at what point said identification tag is received by the receiving computer or from where said tag is sent from.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. Claims 1-10, 13-15, 17, 20, 23-25, 27-30, 32, 36, 43, 44, 55-59, 61-63, 65, 69, 72, 73, 75, and 78-80 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis et al. (6,774,926) [Ellis].

Regarding claims 1 and 57, Ellis discloses a method and system of sharing a video segment (col. 1, lines 19-22) over a computer network (fig. 1, communications network 40), the network comprising a receiving computer (fig. 1, server 50 which receives uploaded content, col. 4, lines 6-18) and a plurality of other computers including a destination computer (fig. 1, user equipment), the method comprising the steps of:

receiving at the receiving computer the video segment sent over the computer network from one of the plurality of other computers (col. 4, lines 6-18);

performing automatically, at the receiving computer, in response to a command received over the network (namely, the received commands enabling reception of the video segment by the receiving computer), the steps of:

assuring that the video segment is in a streaming video format (conversion to a streaming MPEG format is performed if necessary or desired, col. 4, lines 6-18 and col. 8, lines 27-36);

creating an identification tag for the video segment to identify the video segment (identification information is associated with each segment so as to allow remote users to select said segments to watch, said information used to populate a program for program selection, col. 9, lines 1-15 and col. 10, lines 10-16);

storing the video segment under the control of the receiving computer in the streaming format (col. 7, lines 49-57 and col. 8, lines 18-36); and

returning the identification tag to the one of the plurality of other computers (as part of a program guide used for selecting programs, col. 9, lines 1-15); and

receiving the identification tag at the receiving computer and, in response to the receipt of the identification tag at the receiving computer, streaming the video segment in the streaming video format over the network to the destination computer (col. 10, lines 17-33).

Regarding claim 2, Ellis discloses the method of claim 1, wherein the video segment is displayed at the destination computer (fig. 19 and col. 15, lines 40-52).

Regarding claims 3 and 4, Ellis discloses the method of claim 1, wherein the video segment comprises an image with associated audio information (col. 3, lines 19-29).

Regarding claim 5, Ellis discloses the method of claim 1, wherein the computer network comprises a wire connection (users may contribute over a cable connection using a cable modem, col. 4, lines 6-18).

Regarding claims 6 and 7, Ellis discloses the method of claim 1, wherein the computer network comprises a cellular communication connection [wireless networking connection] (users may contribute using a cellular phone, col. 6 line 66 – col. 7 line 3).

Regarding claim 8, Ellis discloses the method of claim 1, wherein the computer network comprises a terrestrial satellite communication connection (col. 7 line 64 – col. 8 line 17).

Regarding claims 9 and 75, Ellis discloses the method and system of claims 1 and 57, wherein receiving the video segment at the receiving computer includes receiving an identifier with the segment (an inherent feature, as all digital files include identifiers, such as file names).

Regarding claim 10, Ellis discloses the method of claim 8, wherein the identifier comprises a file handle (such as the title of the program, used to select programming by users, col. 10, lines 9-16).

Regarding claims 13, 14, 78, and 79, Ellis discloses the method and system of claims 1 and 57, wherein receiving the video segment and identification information at the receiving computer comprises receiving the video

segment and identification information are sent in association with an upload form residing on a World Wide Web page (user submissions are done via the world wide web, which thus utilizes FTP for transfers, col. 12, lines 13-16).

Regarding claims 15 and 58, Ellis discloses the method and system of claims 1 and 57, wherein receiving the video segment at the receiving computer includes receiving information supplied by a sender at the one of the plurality of other computers (col. 11 line 46 – col. 12 line 16).

Regarding claims 17, 20, and 59, Ellis discloses the method and system of claims 15 and 58, wherein the information comprises an identification of the sender (password, fig. 14, option 200, col. 11, lines 53-64).

Regarding claims 23-25, 61, and 62, Ellis discloses the method and system of claims 15 and 58, wherein the information comprises an identifier of the video segment (the title, option 210 in fig. 14).

Regarding claims 27 and 72, Ellis discloses the method and system of claims 15 and 57, wherein the identifier comprises a location related to the video segment (contributors specify the location of programming to upload, col. 11, lines 60-64).

Regarding claims 28 and 63, Ellis discloses the method and system of claims 15 and 58, wherein the identifier comprises a subject relating to the video segment (col. 12, lines 26-40).

Regarding claims 29 and 65, Ellis discloses the method and system of claims 15 and 58, wherein the information comprises a comment about the video segment (fig. 14, description field 202).

Regarding claim 30, Ellis discloses the method of claim 15, wherein the information comprises a period of time during which the video segment will be available (fig. 14, option 204, col. 11, lines 65-67).

Regarding claims 32 and 36, Ellis discloses the method of claim 15, wherein the information comprises an instruction for transmittal of a response, said instruction comprising a format of a physical medium to be used in sending a physical machine readable copy of the video segment (sender's specify the communication path the programming is to use, col. 11, lines 53-64).

Regarding claims 43, 44, and 56, Ellis discloses the method of claim 1, wherein the step of converting the video segment comprises converting the video segment, if it is not in a streaming format at the time of receipt by the receiving computer or in a first streaming format, to a second streaming video format,

independent of a received command to perform such conversion or in response to receipt of the identification tag at the receiving computer (the user may upload a video file in any desired format, and it is converted as necessary to the proper format for broadcasting at any point, col. 4, lines 6-18).

Regarding claim 55, Ellis discloses the method of claim 1, wherein the video segment in streaming video format is streamed from the receiving computer as information embedded in a message (packet payload).

Regarding claim 69, Ellis discloses the system of claim 57, wherein the analyzer determines if the video segment is in MPEG format (the system will perform format conversion if the output format is desired to be an MPEG format, col. 4, lines 6-18).

Regarding claim 73, Ellis discloses the system of claim 57, and additionally discloses a module that identifies how the video segment can be accessed (users establish whether a segment is to be broadcast or available "on demand", col. 11 line 65 – col. 12 line 2).

Regarding claim 80, Ellis discloses the system of claim 57, including a module for streaming requested video segments to a specified computer (on

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demand programs are available over the internet, col. 13, lines 54-55 and col. 14, lines 30-33).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 11, 12, 18, 19, 21, 22, 26, 40-42, 45, 53, 60, 64, 66-68, 70, 76, and 77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis.

Regarding claims 11, 12, 53, 76, and 77, Ellis discloses the method and system of claims 1 and 57, but fails to disclose the step of receiving the video segment and identification information at the receiving computer comprises receiving the video segment and identification information sent in association with an electronic mail message or an HTML mail message.

Examiner takes official notice that sending file attachments with electronic mail messages, both plain text and HTML enabled are notoriously well known means for sending digital files from one computer to another.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Ellis to receive the video segment and identification information when being sent in association with an electronic mail message or an HTML mail message, as these methods are basic means for

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uploading files to a remote computer that are readily available to all home users with an internet connection and home PC with the appropriate software.

Regarding claims 18 and 19, Ellis discloses the method of claim 17, but fails to include the identification of the sender comprise a proper name or username.

Examiner takes official notice that it is notoriously well known for computer users to identify themselves using a name associated with the user.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Ellis to include the identification of the sender comprise a proper name or username.

Regarding claims 21, 22, and 60, Ellis discloses the method and system of claims 15 and 58, but fails to disclose the information comprises a return address [e-mail address] of the sender.

Examiner takes official notice that sending file attachments with electronic mail messages is a notoriously well known means for sending digital files from one computer to another, and sending an e-mail message includes the return address of the sender.

It would have been obvious at the time to a person of ordinary skill in the art to receive the video segment when being sent in association with an electronic mail message, which would include the return e-mail address of the

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sender, as this method is a basic means for uploading a file to a remote computer that is readily available to all home users with an internet connection and home PC with the appropriate software.

Regarding claims 26 and 64, Ellis discloses the method and system of claims 23 and 58, but fails to disclose the identifier comprises a date the video segment was produced.

Examiner takes official notice that it is notoriously well known to include time stamp information with video segments that indicate when the segment was recorded, marking the date when the segment was made.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Ellis to include a date the video segment was produced, for the benefit of providing the time a segment was made, which is important regarding time sensitive material, for example, parents who record a video of a young child usually want to keep track of exactly when the video was made.

Regarding claims 40-42, Ellis discloses the method of claim 15, but fails to disclose the information comprises financial information consisting of a credit card number or a financial account identifier.

Examiner takes official notice that it is notoriously well known in the art to pay for services provided over the Internet by submitting a credit card number or other financial account identifier.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Ellis to include in the information comprises financial information consisting of a credit card number or a financial account identifier, allowing a sender to easily pay for the service of sharing video segments as provided by the Internet server to which the videos are being uploaded to and distributed from.

Regarding claim 45, Ellis discloses the method of claim 1, but fails to disclose queuing a second video segment and a command transmitted with the second video segment for processing by the receiving computer in the event the receiving computer is processing a first video segment.

Examiner takes official notice that it is notoriously well known in the art to queue processing tasks by computers in the order in which the tasks are received, such as FIFO (first in first out) processing.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Ellis to include queuing a second video segment and a command transmitted with the second video segment for processing by the receiving computer in the event the receiving computer is processing a first video

segment, as this ensures that all processing tasks are completed in the order in which they are received.

Regarding claims 66-68, Ellis discloses the system of claim 57, but fails to disclose the analyzer module determines if the video segment is in a QuickTime, ASF, or WMF format.

Examiner takes official notice that QuickTime, ASF, and WMF formats are all notoriously well known formats for streaming digital video files, and each are used depending upon the video player software capabilities of destination computers.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Ellis to determine if the video segment is in a QuickTime, ASF, or WMF format, as each format is a well known and widely used standard for distributing streaming digital videos.

Regarding claim 70, Ellis discloses the system of claim 57, but fails to disclose the format conversion module that converts a format of a video segment to a format that is compatible with streaming video comprises a format conversion module that creates a DirectShow filter graph that decompresses the video file into an uncompressed AVI format file.

Examiner takes official notice that using the Microsoft DirectX toolset for converting video files into a streaming format is notoriously well known. The

DirectShow is the media streaming architecture of DirectX media for controlling and processing streams of multimedia data, and the AVI format is a prebuilt filter included in the DirectShow toolset

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Ellis to include a format conversion module that creates a DirectShow filter graph that decompresses the video file into an uncompressed AVI format file, for the benefit of utilizing the Microsoft DirectX toolset for converting video files into a streaming format, wherein the DirectShow is the media streaming architecture of DirectX media for controlling and processing streams of multimedia data.

7. Claims 16, 33, 34, 35, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Hjalmtysson et al. (6,400,816) [Hjalmtysson].

Regarding claims 16, 33, 34, 35, and 39, Ellis discloses the method of claims 15 and 32 but fails to disclose the instruction comprises a formatting instruction, a speed of transmission, a transmission protocol to be used, or a display format of the video segment on a destination computer.

In an analogous art, Hjalmtysson teaches providing from a user wishing to upload video data instructions comprising formatting instruction, a speed of transmission, a transmission protocol to be used, and a display format of the data on a destination computer (col. 8, lines 46-65), affording users great flexibility in sharing video data.

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It would have been obvious at the time to a person of ordinary skill in the art to modify the method of Ellis to include receiving instructions comprising a formatting instruction, a speed of transmission, a transmission protocol to be used, or a display format of the video segment on a destination computer, as taught by Hjalmtysson, for the benefit of affording users great flexibility in sharing their video segments.

8. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Lenoir (6,741,737).

Regarding claim 31, Ellis discloses the method of claim 15, but fails to disclose the information comprises information relating to a priority order of processing a video segment by the receiving computer.

In an analogous art, Lenoir teaches associating a priority level with digital documents, allowing more important documents to be processed ahead of the less important (col. 8, lines 54-58).

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Ellis to include information relating to a priority order of processing, as taught by Lenoir, for the benefit of allowing those video segments more important to senders to be processed ahead of the less important.

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9. Claims 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Rose et al. (5,752,244) [Rose].

Regarding claims 37 and 38, Ellis discloses the method of claim 32, but fails to disclose the instruction comprises a resolution or image quality of the video segment.

In an analogous art, Rose teaches a multimedia asset management system wherein users input information specifying the resolution and image quality of video and image data (col. 19, lines 33-52), affording users flexibility in the control of video and image data.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Ellis to include instructions that specify a resolution or image quality of the video segment, as taught by Rose, for the benefit of affording users flexibility in the control of video segments.

10. Claims 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Gould et al. (5,563,649) [Gould].

Regarding claims 46-48, Ellis discloses the method of claim 1, but fails to disclose providing to a sender to destination computer of a video segment an estimate of the duration of the required processing time for the conversion of a video segment prior to said conversion.

In an analogous art, Gould teaches providing to users an estimate of the processing time for a video segment in a video facsimile environment prior to said processing.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Ellis to provide to users an estimate of the processing time for a video segment prior to said processing, as taught by Gould, for the benefit of informing users to the time required for processing the video segment by the receiving computer.

11. Claims 49-52, 54, and 81-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of RealVideo Content Creation Guide Version 1.0 [RealVideo].

Regarding claims 49, 50, and 81-84 Ellis discloses the method of claim 1, but fails to disclose the video segment is converted into multiple video formats wherein the receiving computer streams the video segment in a format of the available streaming video formats, the format based on the receiving computer responding to information received in association with the receipt of the identification tag.

In an analogous art, RealVideo teaches bandwidth negotiation, wherein a video segment is converted into multiple video formats and wherein the server streams the video segment in a format of the available streaming video formats, the format based on the receiving computer responding to information received in

association with the receipt of a request (pages 67-68), for the benefit of providing the highest quality video segment possible to each user based upon the individual capabilities and available resources of each destination computer.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Ellis to include converting the video segment into multiple formats, wherein the server streams the video segment in a format of the available streaming video formats, the format based on the receiving computer responding to information received in association with the receipt of a request, for the benefit of providing the highest quality video segment possible to each user based upon the individual capabilities and available resources of each destination computer.

Regarding claims 51 and 52, Ellis and RealVideo disclose the method of claims 49 and 50, but fail to disclose the formats include a non-streaming format.

Examiner takes official notice that video files are distributed in non-streaming formats, allowing destination computers with low bandwidth links to view high quality video segments by downloading the segment in its entirety prior to displaying the segment.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Ellis and RealVideo to include a non-streaming format, for the benefit of allowing destination computers with low

bandwidth links to view high quality video segments by downloading the segment in its entirety prior to displaying the segment.

Regarding claim 54, Ellis discloses the method of claim 53, but fails to disclose the identification tag is a hyperlink provided in the message sent to the destination computer, the hyperlink pointing to a Web page that causes the streaming of the video.

In an analogous art, RealVideo discloses requesting a video by selecting a hyperlink pointing to a Web page that causes the streaming of the video (page 67), for the benefit of providing access to video segments from a web page.

It would have been obvious at the time to a person of ordinary skill in the art to modify the method disclosed by Ellis to request the video segment by selecting a hyperlink pointing to a Web page that causes the streaming of the video as taught by RealVideo, for the benefit of providing access to video segments from a web page.

12. Claims 71 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Zhang et al (5,635,982) [Zhang].

Regarding claims 71 and 74, Ellis discloses the system of claim 57, but fails to disclose the identification module that creates the identification tag identifying the video segment in streaming video format stored in the memory

module comprises a module that selects a video frame from the video segment in streaming video format that identifies the subject matter of the video segment.

In an analogous art, Zhang teaches a video indexing system (fig. 2) wherein keyframes that represent the subject matter of video segments are selected and used to identify the segment (col. 3, lines 1-7), for the benefit of automatically indexing video segments (col. 1, lines 14-65).

It would have been obvious at the time to a person of ordinary skill in the art to modify the system disclosed by Ellis to include selecting a video frame from the video segment that identifies the subject matter of the video segment, as taught by Zhang, for the benefit of automatically indexing video segments using relevant images, which allow users to quickly identify desired segments.

Conclusion

13. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Certificate of Mailing

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Registration Number: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

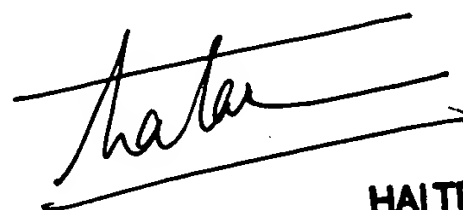
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Dominic Saltarelli
Patent Examiner
Art Unit 2611

DS

A handwritten signature in black ink, appearing to read "HAITRAN", is written over two horizontal lines.

**HAITRAN
PRIMARY EXAMINER**